

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANTONIO CORONA, CECILIO MARTINEZ,
ADAN CORONA, and ALFREDO SANTOS,

Plaintiffs,

Case No.: 08-CV-5399
(Kaplan, J.)

- against -

ADRIATIC ITALIAN RESTAURANT &
PIZZERIA, INC., KOLA CAMAJ, MIKE CAMAJ,
JACK CAMAJ, and PETER CAMAJ,

**ANSWER WITH
AFFIRMATIVE
DEFENSES**

Defendants.

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Defendants Adriatic Italian Restaurant & Pizzeria, Inc., Kola Camaj, Mike Camaj, Jack Camaj, and Peter Camaj (collectively "Defendants"), by their attorneys, Pike & Pike, P.C., as and for their answer to the Complaint of Plaintiffs, set forth herein as follows:

**AS TO ALLEGATIONS
CONCERNING THE NATURE OF THE ACTION**

1. Deny the allegations contained in paragraph "1" of Plaintiffs' Complaint.
2. Deny the allegations contained in paragraph "2" of Plaintiffs' Complaint.
3. Deny the allegations contained in paragraph "3" of Plaintiffs' Complaint.
4. Deny the allegations contained in paragraph "4" of Plaintiffs' Complaint.

**AS TO ALLEGATIONS
CONCERNING JURISDICTION AND VENUE**

5. Admit the allegations contained in paragraph "5" of Plaintiffs' Complaint.
6. Admit the allegations contained in paragraph "6" of Plaintiffs' Complaint.

**AS TO ALLEGATIONS
CONCERNING THE PARTIES**

7. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph "7" of Plaintiffs' Complaint.
8. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph "8" of Plaintiffs' Complaint.
9. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph "9" of Plaintiffs' Complaint.
10. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph "10" of Plaintiffs' Complaint.
11. Deny the allegations contained in paragraph "11" of Plaintiffs' Complaint.
12. Deny the allegations contained in paragraph "12" of Plaintiffs' Complaint.
13. Admit the allegations contained in paragraph "13" of Plaintiffs' Complaint.
14. Admit the allegations contained in paragraph "14" of Plaintiffs' Complaint.
15. Admit the allegations contained in paragraph "15" of Plaintiffs' Complaint.
16. Admit the allegations contained in paragraph "16" of Plaintiffs' Complaint.
17. Admit the allegations contained in paragraph "17" of Plaintiffs' Complaint.
18. Admit the allegations contained in paragraph "18" of Plaintiffs' Complaint.
19. Deny the allegations contained in paragraph "19" of Plaintiffs' Complaint.
20. Admit the allegations contained in paragraph "20" of Plaintiffs' Complaint.
21. Admit the allegations contained in paragraph "21" of Plaintiffs' Complaint.
22. Admit the allegations contained in paragraph "22" of Plaintiffs' Complaint.
23. Deny the allegations contained in paragraph "23" of Plaintiffs' Complaint.
24. Deny the allegations contained in paragraph "24" of Plaintiffs' Complaint.

25. Admit the allegations contained in paragraph "25" of Plaintiffs' Complaint.
26. Admit the allegations contained in paragraph "26" of Plaintiffs' Complaint.
27. Admit the allegations contained in paragraph "27" of Plaintiffs' Complaint.
28. Deny the allegations contained in paragraph "28" of Plaintiffs' Complaint.
29. Admit the allegations contained in paragraph "29" of Plaintiffs' Complaint.
30. Admit the allegations contained in paragraph "30" of Plaintiffs' Complaint.
31. Admit the allegations contained in paragraph "31" of Plaintiffs' Complaint.
32. Admit the allegations contained in paragraph "32" of Plaintiffs' Complaint.
33. Deny the allegations contained in paragraph "33" of Plaintiffs' Complaint.

AS AND TO STATEMENT OF FACTS

34. Admit the allegations contained in paragraph "34" of Plaintiffs' Complaint.
35. Admit the allegations contained in paragraph "35" of Plaintiffs' Complaint.
36. Admit the allegations contained in paragraph "36" of Plaintiffs' Complaint.
37. Deny the allegations contained in paragraph "37" of Plaintiffs' Complaint.
38. Deny the allegations contained in paragraph "38" of Plaintiffs' Complaint.
39. Deny the allegations contained in paragraph "39" of Plaintiffs' Complaint.
40. Deny the allegations contained in paragraph "40" of Plaintiffs' Complaint.
41. Deny the allegations contained in paragraph "41" of Plaintiffs' Complaint.
42. Deny the allegations contained in paragraph "42" of Plaintiffs' Complaint.
43. Deny the allegations contained in paragraph "43" of Plaintiffs' Complaint.
44. Deny the allegations contained in paragraph "44" of Plaintiffs' Complaint.
45. Deny the allegations contained in paragraph "45" of Plaintiffs' Complaint.

46. Deny the allegations contained in paragraph "46" of Plaintiffs' Complaint.
47. Deny the allegations contained in paragraph "47" of Plaintiffs' Complaint.
48. Deny the allegations contained in paragraph "48" of Plaintiffs' Complaint.
49. Deny the allegations contained in paragraph "49" of Plaintiffs' Complaint.
50. Deny the allegations contained in paragraph "50" of Plaintiffs' Complaint.
51. Deny the allegations contained in paragraph "51" of Plaintiffs' Complaint.
52. Deny the allegations contained in paragraph "52" of Plaintiffs' Complaint.
53. Deny the allegations contained in paragraph "53" of Plaintiffs' Complaint.
54. Deny the allegations contained in paragraph "54" of Plaintiffs' Complaint.
55. Deny knowledge or information sufficient to form a belief as to the truth or falsity

of the allegations contained in paragraph "55" of Plaintiffs' Complaint.

56. Deny the allegations contained in paragraph "56" of Plaintiffs' Complaint.

AS AND TO THE FIRST CAUSE OF ACTION
(Alleging Federal Minimum Wage Violations)

57. Answering paragraph "57" of Plaintiffs' Complaint, Defendants repeat, reiterate and re-allege each and every allegation contained in the preceding paragraphs of this answer with the same force and effect as if same were set forth more fully at length herein.

58. Admit the allegations contained in paragraph "58" of Plaintiffs' Complaint.
59. Deny the allegations contained in paragraph "59" of Plaintiffs' Complaint.
60. Deny the allegations contained in paragraph "60" of Plaintiffs' Complaint.
61. Deny the allegations contained in paragraph "61" of Plaintiffs' Complaint.

AS AND TO THE SECOND CAUSE OF ACTION
(Alleging Federal Overtime Violations)

62. Answering paragraph "62" of Plaintiffs' Complaint, Defendants repeat, reiterate and re-allege each and every allegation contained in the preceding paragraphs of this answer with the same force and effect as if same were set forth more fully at length herein.

63. Admit the allegations contained in paragraph "63" of Plaintiffs' Complaint.
64. Deny the allegations contained in paragraph "64" of Plaintiffs' Complaint.
65. Deny the allegations contained in paragraph "65" of Plaintiffs' Complaint.
66. Deny the allegations contained in paragraph "66" of Plaintiffs' Complaint.

AS AND TO THE THIRD CAUSE OF ACTION
(Alleging New York State Minimum Wage Violations)

67. Answering paragraph "67" of Plaintiffs' Complaint, Defendants repeat, reiterate and re-allege each and every allegation contained in the preceding paragraphs of this answer with the same force and effect as if same were set forth more fully at length herein.

68. Admit the allegations contained in paragraph "68" of Plaintiffs' Complaint.
69. Deny the allegations contained in paragraph "69" of Plaintiffs' Complaint.
70. Deny the allegations contained in paragraph "70" of Plaintiffs' Complaint.
71. Deny the allegations contained in paragraph "71" of Plaintiffs' Complaint.

AS AND TO THE FOURTH CAUSE OF ACTION
(Alleging New York State Overtime Violations)

72. Answering paragraph "72" of Plaintiffs' Complaint, Defendants repeat, reiterate and re-allege each and every allegation contained in the preceding paragraphs of this answer with the same force and effect as if same were set forth more fully at length herein.

73. Deny the allegations contained in paragraph "73" of Plaintiffs' Complaint.
74. Admit the allegations contained in paragraph "74" of Plaintiffs' Complaint.
75. Deny the allegations contained in paragraph "75" of Plaintiffs' Complaint.
76. Deny the allegations contained in paragraph "76" of Plaintiffs' Complaint.

AS AND TO THE FIFTH CAUSE OF ACTION
(Alleging New York State Spread-of-Hours Pay Violations)

77. Answering paragraph "77" of Plaintiffs' Complaint, Defendants repeat, reiterate and re-allege each and every allegation contained in the preceding paragraphs of this answer with the same force and effect as if same were set forth more fully at length herein.
78. Deny the allegations contained in paragraph "78" of Plaintiffs' Complaint.
79. Deny the allegations contained in paragraph "79" of Plaintiffs' Complaint.
80. Deny the allegations contained in paragraph "80" of Plaintiffs' Complaint.

AS AND TO THE SIXTH CAUSE OF ACTION
(Alleging Illegal Wage Deductions)

81. Answering paragraph "81" of Plaintiffs' Complaint, Defendants repeat, reiterate and re-allege each and every allegation contained in the preceding paragraphs of this answer with the same force and effect as if same were set forth more fully at length herein.
82. Deny the allegations contained in paragraph "82" of Plaintiffs' Complaint.
83. Deny the allegations contained in paragraph "83" of Plaintiffs' Complaint.

AS AND TO THE SEVENTH CAUSE OF ACTION
(Seeking Compensatory Damages in Quantum Meruit)

84. Answering paragraph "84" of Plaintiffs' Complaint, Defendants repeat, reiterate and re-allege each and every allegation contained in the preceding paragraphs of this answer with the

same force and effect as if same were set forth more fully at length herein.

85. Deny the allegations contained in paragraph "85" of Plaintiffs' Complaint.
86. Deny the allegations contained in paragraph "86" of Plaintiffs' Complaint.

**AS AND TO THE EIGHTH CAUSE OF ACTION
(Alleging Unjust Enrichment)**

87. Answering paragraph "87" of Plaintiffs' Complaint, Defendants repeat, reiterate and re-allege each and every allegation contained in the preceding paragraphs of this answer with the same force and effect as if same were set forth more fully at length herein.

88. Deny the allegations contained in paragraph "88" of Plaintiffs' Complaint.
89. Deny the allegations contained in paragraph "89" of Plaintiffs' Complaint.
90. Deny the allegations contained in paragraph "90" of Plaintiffs' Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

91. Defendants acted at all times in a good faith belief that they were in compliance with all applicable statutes, laws and regulations concerning payment of wages and any other compensation owed to Plaintiffs.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

92. During all or part of the period in question, Plaintiffs were retained as independent contractors and not as employees. Accordingly, the Court lacks subject matter jurisdiction over plaintiffs' FLSA claims, and over plaintiffs' pendent state law claims.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

93. Defendants are not liable for liquidated damages inasmuch as the acts and/or omissions which gave rise to the action were in good faith, and Defendants had reasonable grounds

for believing that their acts or omissions did not violate the Fair Labor Standards Act.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

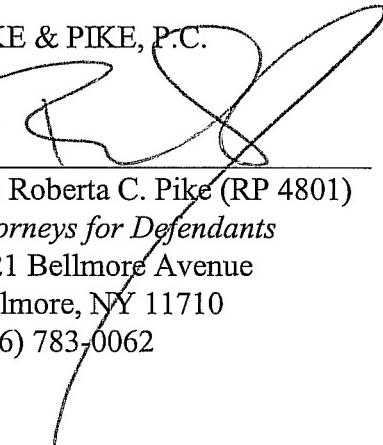
94. Plaintiffs' claims are barred, in whole or in part, by the applicable statute of limitations.

WHEREFORE, Defendants respectfully demand judgment as follows:

- a) Dismissing Plaintiffs' Complaint as against Defendants in its entirety;
- b) together with the costs and disbursements of this action; and
- c) such other and further relief as this Court may deem just, proper and equitable.

Dated: July 29, 2008
Bellmore, New York

Yours, etc.

PIKE & PIKE, P.C.

By: Roberta C. Pike (RP 4801)
Attorneys for Defendants
1921 Bellmore Avenue
Bellmore, NY 11710
(516) 783-0062

To: Make The Road New York, Inc.
Attorneys for Plaintiffs
301 Grove Street
Brooklyn, NY 11237
(718) 418-7690 ext. 224

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Attorneys for Plaintiffs
299 Broadway, 4th Floor
New York, NY 10007
(212) 417-3760

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANTONIO CORONA, CECILIO MARTINEZ,
ADAN CORONA, and ALFREDO SANTOS,

Case No.:08-CV-5399

Plaintiffs,

- against -

ADRIATIC ITALIAN RESTAURANT &
PIZZERIA, INC., KOLA CAMAJ, MIKE CAMAJ,
JACK CAMAJ, and PETER CAMAJ,

**AFFIRMATION
OF SERVICE**

Defendants.

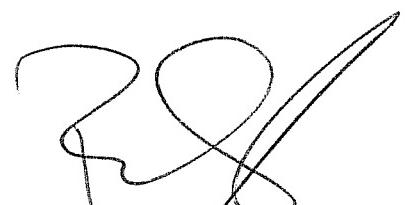
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I, Roberta C. Pike, declare under penalty of perjury that I have served a copy of the attached Answer to First Amended Complaint with Affirmative Defenses upon:

| | | |
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| To: | Make The Road New York, Inc. <i>Attorneys for Plaintiffs</i> 301 Grove Street Brooklyn, NY 11237 (718) 418-7690 ext. 224 | MFY Legal Services <i>Attorneys for Plaintiffs</i> 299 Broadway, 4 th Floor New York, NY 10007 (212) 417-3760 |
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by First Class Mail.

Dated: July 29, 2008
Bellmore, New York



Roberta C. Pike (RP 4801)
Attorneys for Defendants
1921 Bellmore Avenue
Bellmore, NY 11710
(516) 783-0062